REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-22 remain pending.

Reply to Response to Arguments

At the outset, Applicant replies to the Response to Arguments section beginning at page 1 of the Official Action (OA) mailed May 14, 2008.

Gao fails to disclose "marking the subsequent element in the linked-list as in-use after encountering a breakpoint" as claimed in claim 1

The PTO asserts that *Gao* discloses and teaches "marking [a] subsequent element in [a] linked-list as in-use after encountering a breakpoint." This is incorrect.

First, Fig. 3 of *Gao* appears to depict only an in-use flag 310 without disclosing or suggesting that the flag is set subsequent to advancing elements. The description of Fig. 3, column 3, lines 39-63, states that "[i]n-use flag 310 indicates whether the container is being used at the current time." *Gao* fails to disclose or suggest marking a subsequent element in the linked-list as claimed in claim 1. To the contrary, *Gao* appears to describe that the in-use flag of the current element in the list is set to indicate that the "container is being used at the current time." Thus, *Gao* fails to disclose or suggest marking the subsequent element as in-use and claim 1 is patentable over *Gao*. For at least this reason, withdrawal of the rejection is respectfully requested.

Second, the PTO asserts that *Gao* discloses a breakpoint as per the instant

application. This is incorrect. The instant specification states that a "breakpoint definition is used to define when a first process . . . **is required to relinquish control** over the linked-list so that a second process can gain access to the linked-list." See instant specification at paragraph 10 (emphasis added). Neither column 4, lines 36-40, 62-67 nor Figures 5A and 5B appear to disclose a process required to relinquish control over a linked list as claimed in claim 1.

As described, *Gao* describes a client attempting to set in-use flag 310 using an atomic set and swap operation "to try to lock the container" without describing another client being required to relinquish control. See *Gao* at column 4, lines 36-40. That is, *Gao* fails to disclose the encountering of a breakpoint as claimed.

Further, the PTO asserts that "a breakpoint is encountered when a container that is attempted to being used and is locked and set to be in the in-use state and thus is marked." This statement is not understood by Applicants and clarification is respectfully requested. Per *Gao*, a container which is in-use corresponds to a container lock being placed on the container and no other client is able to use the container. See *Gao* at column 3, lines 46-48. Thus, there is no relinquishing of control of the container per either the PTO definition or the instant Specification definition of a breakpoint and there has been no encounter of a breakpoint. Further, per *Gao* at Fig. 5A, elements 515 and 520, an attempt is made to lock the container which may or may not succeed depending on whether the in-use flag is set. Fig. 5A fails to depict, and the description of Fig. 5A fails to describe, relinquishing of control of the container responsive to the attempt to lock the container. Thus, *Gao* fails to disclose marking a subsequent element in a linked-list as in-use after encountering a breakpoint. For at least this reason, withdrawal

of the rejection is respectfully requested.

Gao fails to disclose "creating a recommencement reference to a subsequent element" as claimed in claim 1

The PTO asserts that *Gao* disclose "creating a recommencement reference to a subsequent element" at column 2, lines 46-58, and column 3, lines 9-16 and 56-59. This is incorrect.

At the outset, Applicants note that the PTO has failed to set forth with specificity how *Gao* is applied to the claimed subject matter. Specifically, the PTO has not identified how "the breakpoint has been marked" nor what is "the recommencement point is the one at breakpoint when the flag is unset or search for another container is made." To what does the PTO refer as the breakpoint having been marked? What element of *Gao* does the PTO believe corresponds to the recommencement point? Finally, to which pointer of *Gao* is the PTO referring by stating that "the recommencement is clearly explained and showed by the pointer in the reference?" Is the PTO referring to pointer 220 (in the referred to column 2, lines 46-58) or pointer 325 (in the referred to column 3, lines 56-59)? Clarification is respectfully requested.

With respect to the recited pointer, *Gao* appears to describe the use of next pointer 220 as pointing to a queue without describing the creation of the pointer as a reference to a subsequent element, i.e., next pointer 220 points to the queue and is not used as a recommencement reference to a container in the queue. *Gao* appears to describe next pointer 325 as the mechanism used to link containers in the linked-list without describing the pointers used a recommencement reference to a particular container. As previously stated and not refuted by the PTO, neither of next pointer 220

or 325 may be used as a recommencement reference as described according to the instant specification, i.e., after a first process regains control over the linked-list from a second process, the first process is able to "determine[] a subsequent element in the linked-list according to the recommencement reference that points to a subsequent element (step 55)." Instant specification at page 7, paragraph 13. For at least this reason, withdrawal of the rejection is respectfully requested.

Further, *Gao* appears to rely on traversal of the queue in order to locate a container that is not in use, i.e., by following next pointer 325 of each container 305, instead of using a recommencement reference as claimed. That is, *Gao* fails to disclose a recommencement reference or the use of a recommencement reference as claimed. For at least this reason, withdrawal of the rejection is respectfully requested.

Based on at least each of the foregoing reasons, claim 1 is patentable over *Gao* and the rejection is respectfully requested to be withdrawn.

Claims 2-4

Claims 2-4 depend, either directly or indirectly, from claim 1, include further features, and are patentable over *Gao* for at least the reasons advanced above with respect to claim 1. The rejection of claims 2-4 should be withdrawn.

Claims 5-6

Claim 5 is patentable over *Gao* for at least reasons similar to those advanced above with respect to claim 1 and withdrawal of the rejection is respectfully requested.

Claim 6 depends from claim 5, includes further features, and is patentable over

Gao for at least the reasons advanced above with respect to claim 5. The rejection of claim 6 should be reversed.

Claims 7, 13, and 19

Claims 7, 13, and 19 are patentable over *Gao* for at least reasons similar to those advanced above with respect to claim 1 and withdrawal of the rejection is respectfully requested.

Claims 8-12 and 14-18 depend, either directly or indirectly, from claims 7 and 13, respectively, include further features, and are patentable over *Gao* for at least the reasons advanced above with respect to claims 7 and 13. The rejection of claims 8-12 and 14-18 should be reversed.

Claims 20-22 depend, either directly or indirectly, from claim 19, include further features, and are patentable over *Gao* for at least the reasons advanced above with respect to claim 19. The rejection of claims 20-22 should be reversed.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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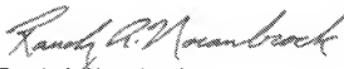
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